

REMARKS/ARGUMENTS

The Examiner is requiring restriction to one of the following Groups:

- Group I: Claims 1-4, drawn to an asporogenous *Brevibacillus choshinensis* (*Bacillus brevis*);
- Group II: Claims 5-12, drawn to an asporogenous *Brevibacillus choshinensis* (*Bacillus brevis*) lacking or having reduced protease activity;
- Group III: Claims 13-14 and 17-20, drawn to transformed asporogenous *Brevibacillus choshinensis* (*Bacillus brevis*) strains lacking or having reduced protease activity; and
- Group IV: Claims 15-16, drawn to a method of making a protein using a transformant asporogenous *Brevibacillus choshinensis* (*Bacillus brevis*) strains lacking or having reduced protease activity.

The Examiner alleges that the Groups do not relate to a single general inventive concept under PCT Rule 13.1 because the same or corresponding special technical feature is lacking between the groups under PCT Rule 13.2 for the following reasons:

“First, the inventions of groups I and III do not match a permitted category as PCT Rule 13.2 does not provide for multiple methods or products in one category. A variety of products are claimed having distinct properties. For example, groups I and II are drawn to include asporogenous *Brevibacillus choshinensis* (*Bacillus brevis*) having different properties, while Group III requires transformed strains of *Brevibacillus choshinensis* (*Bacillus brevis*) which have additional requirements for their functional intended use.

No common inventive concept is shared among groups I through IV, since a technical relationship is lacking among the claimed inventions involving one or more special technical features because asporogenous *Brevibacillus choshinensis* (*Bacillus brevis*) are known in the art. See, e.g., Modest *et al.*, Table 1, of record.”

However, PCT Rule 13.2 reads (in part):

“The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.”

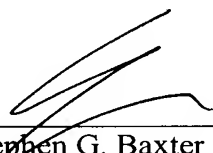
Applicants contend that the Examiner did not consider, as a whole, the contribution that the claimed products make over the prior art. Specifically, unlike the *Brevibacillus choshinens* of the present claims, the strain disclosed in Modest *et al.* produces spores under certain growth conditions (*see* abstract of reference: “these mutants formed normal spores after being transferred to nitrogen-free medium and upon the addition of tyrocidine.”). Secondly, while Modest *et al.* may refer to ATCC 8185 as *Bacillus brevis*, it is actually classified as *Brevibacillus parabrevis* (*see* attached ATCC Catalog Search). Therefore, Modest *et al.* does not disclose the bacterial strain of the present invention.

For the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction. Applicants therefore request that the requirement for restriction be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Stephen G. Baxter
Registration No.: 32,884

Customer Number

22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 08/07)



Search Catalog

Select a Category



[Login](#) [Search Options](#)

[About](#) | [Cultures and Products](#) | [Science](#) | [Standards](#) | [Deposit Services](#) | [Custom Services](#) | [Product Use Policy](#)

[ATCC Advanced Catalog Search](#) » [Product Details](#)

Product Description

Before submitting an order you will be asked to read and accept the terms and conditions of ATCC's [Material Transfer Agreement](#) or, in certain cases, an MTA specified by the depositing institution.

Customers in Europe, Australia, Canada, China, Hong Kong, India, Japan, Korea, Macau, Mexico, New Zealand, Singapore, and Taiwan, R.O.C. must contact a local distributor for pricing information and to place an order for ATCC cultures and products.

[Print this Page](#)

Bacteria

ATCC® Number: **8185™** **Price:** **\$185.00**

Organism: *Brevibacillus parabrevis* deposited as *Bacillus brevis* Migula

Designations: NRS 751

Depositor: NR Smith

Isolation: soil

Biosafety Level: 1

Shipped: freeze-dried

Growth Conditions: ATCC medium 3: Nutrient agar or nutrient broth

Temperature: 30.0°C

Permits/Forms:

In addition to the [MTA](#) mentioned above, other [ATCC](#) and/or [regulatory](#) permits may be required for the transfer of this ATCC material. Anyone purchasing ATCC material is ultimately responsible for obtaining the permits. Please click [here](#) for information regarding the specific requirements for shipment to your location.

Related Products

Cross References: Nucleotide (GenBank) : M10111 *B.brevis* 16S rRNA.
Nucleotide (GenBank) : M19023 *B.brevis* ribonuclease P RNA gene.

Nucleotide (GenBank) : X13237 *Bacillus brevis* *tycA* gene for tyrocidine synthetase I.
Nucleotide (GenBank) : U09971 *Bacillus brevis* ATCC 8185 *Spo0A* (*spo0A*) gene, partial cds.
Nucleotide (GenBank) : M16442 *Bacillus brevis* *tycA* mRNA encoding tyrocidine synthetase, 5' end.
Nucleotide (GenBank) : AF004835 *Brevibacillus brevis* tyrocidine biosynthesis operon, tyrocidine synthetase 1 (*tycA*), tyrocidine synthetase 2 (*tycB*), tyrocidine synthetase 3 (*tycC*), putative ABC-transporter *TycD* (*tycD*), putative ABC-transporter *TycE* (*tycE*) and putative thio
produces gramicidin
produces tyrocidine
5741: J. Exp. Med. 73: 629, 1941.
5923: Smith NR, et al. Aerobic spore forming bacteria. U.S. Dep. Agric. Monogr. 16: 1-148, 1952.
6445: Smith NR, et al. Aerobic mesophilic spore-forming bacteria. U.S. Dep. Agric. Misc. Publ. 559: 41, 1946.
9331: Slapikoff S, et al. Sporulation in *Bacillus brevis*: studies on protease and protein turnover. J. Bacteriol. 106: 739-744, 1971. PubMed: 5557592

Applications:**References:**

[Return to Top](#)

Notices and Disclaimers

ATCC products are intended for laboratory research purposes only, unless noted otherwise. They are not intended for use in humans.

While ATCC uses reasonable efforts to include accurate and up-to-date information on this site, ATCC makes no warranties or representations as to its accuracy. Citations from scientific literature and patents are provided for informational purposes only. ATCC does not warrant that such information has been confirmed to be accurate.

All prices are listed in U.S. dollars and are subject to change without notice. A discount off the current list price will be applied to most cultures for nonprofit institutions in the United States. Cultures that are ordered as test tubes or flasks will carry an additional laboratory fee. Fees for permits, shipping, and handling may apply.

[Back to my Search](#)

Customize your ATCC Web experience: [Login](#) ▶

[Home](#) | [Site Map](#) | [FAQ](#) | [Privacy Policy](#) | [Careers](#) | [Contact Us](#)

© 2008 ATCC. All Rights Reserved.